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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,526	07/20/2001	Michelle Marie Svatos	2001P13113US	2480

7590 10/10/2003

Siemens Corporation
Attn: Elsa Keller, Legal Administrator
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

EXAMINER

NGUYEN, KIET TUAN

ART UNIT	PAPER NUMBER
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2881

DATE MAILED: 10/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/910,526

Applicant(s)

SVATOS ET AL.

Examiner

K. Nguyen

Art Unit

2881

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 23 January 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: _____

Remarks

Applicant is requested to provide all the prior art as indicated in the form PTO-1449 filed on July 20, 2001 because they have been lost.

Objected Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the image device positioned at a body to be irradiated and an electron beam directed at the body as recited in claim 13 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Rejection Under 35 U.S.C. 112, Second Paragraph

Claims 8-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 recites the limitation "said enhancing" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "said representation" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "said enhancing" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "said representation" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 11 recites the limitation "said representation" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 12 recites the limitation "said comparison" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 12 recites the limitation "said representation" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 12 recites the limitation "said desired image" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 13 is indefinite for reciting the limitations "positioning an image device at a body to be irradiated", "directing an electron beam at said body" and "detecting, using said imaging device, an image created by a plurality of photons after passing through said body". How is the imaging device positioned at the body, who is the patient, directed by the electron beam and detecting the image of the photons?

Rejection Under 35 U.S.C. 102(b)

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Ueda et al.

Ueda et al. disclose, in figs. 1-7, a radiation therapy system. The system includes an imaging device 11 having a plurality of sensors or fluorescent plates and a fluorescent ray imaged by a TV camera which is video technology (see col. 8, line 66 to col. 9, line 2), which is a flat panel imaging device (see figs. 4 and 7), for detecting an image created by photons which are bremsstrahlung photons (X-rays) and generated from an electron beam treatment field; an image processing apparatus 109 for enhancing the image to generate a representation of the electron treatment field; an electron beam generation controlling circuit as shown in fig. 5 employed in an accelerator control apparatus 12 for controlling a collimator 16 and determining an energy of the electron beam corresponding to an angular of photons which are calculated and generated by the electron beam; an apparatus 113 for comparing the detected image to a reference image to generate an enhanced image; a CRT monitor 114 for displaying the enhanced image; and a control apparatus 106 for controlling a gantry, a treatment field and an accelerator.


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- 1) Nunan discloses a radiotherapy system having an imaging device; and
- 2) Leavitt et al. also disclose a therapy system having an imaging device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner *Kiet T. Nguyen* whose telephone number is (703) 308-4855.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9318.

K.T.N/Primary
9/30/03


KIET T. NGUYEN
PRIMARY EXAMINER